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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/909,224	LU ET AL.	
	Examiner	Art Unit	
	Justin E. Shepard	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 August 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-21,28-39,61-69,79-90,92-94,99,100 and 102* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-21,28-39,61-69,79-90,92-94,99,100 and 102* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/6/09 have been fully considered but they are not persuasive.

Page 14, section 5:

The applicant argues that the declaration by Houston (filed 12/3/07) teaches that Ozkan could not be combined with the Houston reference. Specifically, the applicant cites the portion where Houston recites "my patent makes absolutely no mention of collection and/or timestamping PID headers as a useful vehicle for performing media monitoring." If Houston had taught this concept, Ozkan would not have been needed to reject the claims. The section immediately after this recites that his patent could certainly collect such PID headers, but that his patent does not specifically disclose this. This seems to further backup the examiner's claim that Ozkan could be combined with Houston to teach this limitation, as John Houston states that his patent could be used to perform this technique, but he did not specifically disclose it in his application.

The next bolded portion states that "in my opinion, the only way a person of ordinary skill in the art at the relevant time frame reading my patent would be led to collect and timestamp PID headers, is if that person had a priori knowledge of the value of collecting such PID headers from another source." Again, this backs up the examiners opinion, as he is relying on Ozkan to teach this concept, as Ozkan would have had knowledge or collecting PID headers as his patent deals with this concept.

Page 14, section 6:

The applicant argues (citing the Houston declaration again) that Houston does not by itself motivate someone to collect timestamp PID headers. Again, the examiner is not suggesting that Houston contains motivation for the combination. Referring to the previous Office Action (pages 5 and 6), it can be seen that there are 3 motivation statements, none of which rely on Houston. By Houston's remarks, one would not be able to add any part to an older patent reference that the original inventor did not conceive at the time of the invention. This is not the standard, as it is whether or not one of ordinary skill in the art would have thought to combine the concepts that is the standard. For example, if Houston did not disclose a remote control to control the television and did not see that as a possible option for the device, the examiner would not be able to combine Houston with a reference that used a remote to control a receiver as Houston did not foresee it. But it is obvious, that one of ordinary skill in the art would know that it's obvious to add a remote to control a receiver, just as Ozkan teaches that it would have been obvious to add the timestamped PID headers to Houston.

Page 14, last section:

The applicant continues to argue that there is no motivation to combine Ozkan and Houston without responding to the 3 motivational statements given in the last office action.

Page 15, section beginning with “Ozkan”:

In response to applicant's arguments against the references individually (only Ozkan in this case), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Page 15, last section:

The applicant continues to argue that there is no motivation to combine Ozkan and Houston without responding to the 3 motivational statements given in the last office action.

Page 16, section beginning with “Based”:

The applicant argues that it would not have been obvious for one of ordinary skill in the art to modify Houston to include the PID collection because standardized program identifiers are already present in Houston. Going back to the remote controller idea, lets say that Houston disclosed that the television set had buttons on the unit itself to control the unit, but did not disclose a remote control for controlling the unit. Using the applicant's argument, the examiner would not be able to modify Houston to include a remote controller because there was already a means to control the television (the on unit buttons). This is not the case, as the remote control would add a benefit to the system, just as Ozkan would add a benefit to Houston.

Page 16, section 3:

The applicant argues and Houston recites that his invention is not directed towards a tuning device, specifically that it "does not seek to affect how audience members utilize their tuning devices." In the background section of Houston (column 4, lines 15-27), it states that a system for measuring a plurality of platforms having different formats, including television and cable television. From this statement, it seems like Houston did have monitoring a tuning system in mind, as televisions and cable television receivers inherently include tuners.

Page 16, last section continuing onto page 17:

The applicant argues that claims 61 and 79 are also allowable over the arguments made for claim 13. As these arguments have been rebutted, these arguments are moot.

Page 18, first section:

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Page 18, section 4:

The applicant cited the Houston Declaration states that as the Houston patent does not mention eavesdropping, that it can't be used in a combination to reject the limitation. As the claims only refer to connecting up an external reader and not eavesdropping, this argument is moot.

Page 18, last section:

The applicant argues that as Saito does not mention storing a record of watched programming using a IEEE 1394 standard to export the data, but instead just teaches connecting up devices using a IEEE 1394 standard so it does not teach the limitation. Houston teaches storing viewer history data and Welsh teaches a system where slave units can record a viewing history and then transmit the viewing history to a main unit (figure 1a; column 6, lines 35-61) for transmittal to a remote facility as the slave unit does not contain a modem. This section only refers to the connection as dedicated wiring. Saito is then brought in to teach that the wiring could be the IEEE 1394 standard. One of ordinary skill in the art would have been able to use the IEEE 1394 standard to connect up devices as it is well known in the art.

Page 19, section beginning with “The rejections ignore”:

The applicant argues that the examiner merely argues that it would be obvious to use a firewire port with Houston to communicate data among multiple units. This is not an accurate interpretation of the rejection used. The rejection used is Houston teaching a viewer history record storing, which is combined with Welsh to teach a slave unit for storing a viewer history record being connected by a wire, which is then combined with Saito to teach where the wire could be a firewire cord. This combination is considered valid and meeting all of the limitations.

Page 19, last section:

The applicant argues that no one would have modified Houston to include an external data reader when the reading is done by the unit itself. The examiner has shown that the system could use a slave unit for use in another room that would not contain the modem found in the main unit. Therefore one of ordinary skill in the art would have been able to make the combination without using hindsight.

Page 20, section beginning with “The applicant’s":

The applicant argues that claim 80 is also allowable over the arguments made for claim 62. As these arguments have been rebutted, these arguments are moot.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 13-15, 17, 18, 20, 21, 33-37, 61, 79, 88, and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan.

Referring to claim 13, Houston discloses a digital television audience measurement system for television equipment, wherein the digital television equipment is disposed in a statistically selected location (column 8, lines 13-20; column 14, lines 43; column 2, lines 8-12), the television audience measurement system comprising:

a software agent adapted to read a program identification from a data packet containing a portion of a tuned digital television program to identify the television program tuned by the digital television equipment (figure 4, parts 410, 420, 430, and 1500; figure 8; column 16, lines 47-52), wherein the software agent is stored in memory associated with the digital television equipment and wherein the software agent stores at least a portion of the program identifier in association with a timestamp (figure 8; column 16, lines 64-67); and

a communication apparatus adapted to transmit at least one of the at least the portion of the program identifier and media identification information obtained via the program identifier to a remotely located central office (figure 1; column 8, lines 13-32).

Houston does not disclose a system wherein the program identification is located within a PID header; and wherein the PID header is broadcast with the data packet to enable the digital equipment to tune to a selected one of a plurality of minor channels broadcast in a major channel.

In an analogous art, Ozkan teaches a system wherein the program identification is located within a PID header (column 5, lines 8-17); and wherein the PID header is broadcast with the data packet to enable the digital equipment to tune to a selected one of a plurality of minor channels broadcast in a major channel (column 7, lines 47-54).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the PID headers taught by Ozkan in the system disclosed by Houston.

The first motivation would have been that using a standardized program identifier, such as a PID header, would have given the system better interoperability with existing systems, which would be an advantage as Houston deals with the sharing of viewing records.

The second motivation would have been that using the PID header enables the system to tune to sub-channels without acquiring the program map table (PMT) (Ozkan: column 7, lines 47-54).

The third motivation refers to KSR, where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely

challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Referring to claim 14, Houston discloses a television audience measurement system of claim 13 wherein the digital television equipment comprises a receiver having a tuner (column 14, line 43), a microprocessor (figure 4, part 410), memory (figure 4, parts 420 and 430), and a video display unit (column 14, lines 53-54).

Ozkan and Houston do not disclose a system with an operating system.

The examiner takes Official Notice that it is notoriously well known in the art for a consumer electronic device to use an operating system to control the overall functions of the device.

At the time of the invention it would have been obvious for one of ordinary skill in the art to add an operating system to the system disclosed by Houston and Ozkan. The motivation would have been to enable the system to be updated by upgrading the OS,

thereby adding new features or fixing bugs, which would make the system more enticing to consumers.

Referring to claim 15, Houston does not disclose a television audience measurement system of claim 13, wherein the digital television equipment is a set top box providing an analog television signal to an analog receiver.

In an analogous art, Ozkan teaches a television audience measurement system of claim 13 wherein the digital television equipment is a set top box providing an analog television signal to an analog receiver (figure 1, part 45).

At the time of the invention it would have been obvious for one of ordinary skill in the art to enable the a STB to provide analog television signals to an analog receiver. The motivation would have been to enable backwards compatibility with older television sets.

Referring to claim 17, Houston discloses a television audience measurement system of claim 13 wherein the digital television equipment comprises a set top box (column 14, lines 43) and a monitor (column 14, lines 53-54).

Referring to claim 18, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the digital television equipment comprises a personal computer provided with a television receiver.

The examiner takes Official Notice that it is notoriously well known in the art to use a computer as a television receiver as most current set top boxes contain the components of a simple computer.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use a computer as a television receiver in the system disclosed by Houston and Ozkan. The motivation would have been that Houston discloses the alternative wherein the system is a computer network (column 8, lines 21-32).

Referring to claim 20, Houston discloses a television audience measurement system of claim 13 wherein the digital television equipment includes a DVD player (column 14, lines 55-56).

Referring to claim 21, Houston and Ozkan do not disclose a television audience measurement system of claim 13 further comprising a person identification apparatus.

The examiner takes Official Notice that it is notoriously well known in the art to identify users of a television viewing preference device.

At the time of the invention it would have been obvious for one of ordinary skill in the art to add a personal identification method to the system disclosed by Houston and Ozkan. The motivation would have been to enable the company tracking the viewing to keep more accurate records in regards to sex, race, age, etc. and therefore make the data more enticing to advertisers.

Referring to claim 33, Houston discloses a television audience measurement system of claim 13 wherein the communication apparatus is arranged to send the PID header to an Internet service provider via the Internet (figure 1; column 8, lines 21-32).

Referring to claim 34, Houston discloses a television audience measurement system of claim 13 wherein the communication apparatus includes an intermediate data collector (figure 1; figure 2; column 8, lines 21-32).

Referring to claim 35, Houston discloses a television audience measurement system of claim 34 wherein the intermediate data collector includes a store and forward device, and wherein the store and forward device is arranged to send the PID header to the central office via a telephone line (figure 1; figure 2; column 8, lines 21-32).

Referring to claim 36, Houston discloses a television audience measurement system of claim 34 wherein the intermediate data collector is an Internet service provider (figure 1; figure 2; column 8, lines 21-32).

Referring to claim 37, Ozkan and Houston do not disclose a television audience measurement system of claim 34 wherein the intermediate data collector is a data collection facility located in the central office (figure 1; figure 2; column 8, lines 21-32).

Referring to claim 61, Houston discloses a software agent stored in memory associated with digital television equipment, wherein the software agent is arranged to acquire television audience measurement data relative to the digital television equipment (column 8, lines 13-20; column 14, line 43; column 2, lines 8-12), the software agent comprising:

first instructions to store and timestamp at least a portion of a television program identification from a data packet containing a portion of a tuned television program to identify the television program selected for viewing on the digital television equipment (figure 8; column 14, lines 47-52 and 64-67);

second instructions to log a co-transmitted datum transmitted in a same major channel as the television program selected for viewing on the digital television equipment, the co-transmitted datum being related to the tuned television program (figure 8); and

third instructions to log an Internet identification datum associated with an Internet task of the digital television equipment (figure 8).

Houston does not disclose a system wherein the program identification is located within a PID header.

In an analogous art, Ozkan teaches a system wherein the program identification is located within a PID header (column 5, lines 8-17).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the PID headers taught by Ozkan in the system disclosed by Houston. The first motivation would have been that using a standardized program identifier, such

as a PID header, would have given the system better interoperability with existing systems, which would be an advantage as Houston deals with the sharing of viewing records. The second motivation would have been that using the PID header enables the system to tune to sub-channels without acquiring the program map table (PMT) (Ozkan: column 7, lines 47-54).

Claim 79 is rejected on the same grounds as claim 61.

Referring to claim 88, Houston discloses a television audience measurement system of claim 13 wherein the communication apparatus transmits the PIO headers with the time stamps to the remotely located central office to facilitate compilation of audience measurement data (figure 8; column 8, lines 13-20).

Referring claim 92, Houston discloses a software agent of claim 61 wherein the digital television equipment includes an output port to export at least one of the time stamped PID header, the co-transmitted datum, or the Internet identification datum (column 8, lines 13-20).

2. Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan as applied to claim 13 above, and further in view of Lotspiech.

Referring to claim 16, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the digital television equipment comprises a set top box providing a digital television signal to a digital receiver.

In an analogous art, Lotspiech teaches a television audience measurement system of claim 13 wherein the digital television equipment comprises a set top box providing a digital television signal to a digital receiver (column 4, lines 53-59; figure 1).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the digital television signal transmission taught by Lotspiech to the system disclosed by Houston and Ozkan. The motivation would have been to leave the signal in its digital form as long as possible to lower the signal loss equated with analog signal transmission.

Referring to claim 19, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the digital television equipment includes a VCR.

In an analogous art, Lotspiech teaches a television audience measurement system of claim 13 wherein the digital television equipment includes a VCR (column 4, lines 53-59; figure 1).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the digital VCR taught by Lotspiech to the system disclosed by Houston and Ozkan. The motivation would have been to leave the signal in its digital form as long as possible to lower the signal loss equated with analog signal transmission.

3. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan as applied to claim 13 above, and further in view of Gerace.

Referring to claim 28, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the software agent is arranged to detect window activities conducted by an audience.

In an analogous art, Gerace teaches a television audience measurement system of claim 13 wherein the software agent is arranged to detect window activities conducted by an audience (column 5, lines 8-14; figure 3F).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the menu tracking taught by Gerace to the system disclosed by Houston and Ozkan. The motivation would have been to capture more detailed information (programs the user viewed the details of) to provide a better collection of data to sell to the advertisers.

4. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan as applied to claim 13 above, and further in view of Ciciora.

Referring to claim 29, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the communication apparatus includes a serial port.

In an analogous art, Ciciora teaches a television audience measurement system of claim 13 wherein the communication apparatus includes a serial port (column 4, lines 59-61).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the serial connection taught by Ciciora to the system disclosed by Houston and Ozkan. The motivation would have been to use a known transmission standard to keep manufacturing costs down.

Referring to claim 30, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the communication apparatus includes a parallel port.

In an analogous art, Ciciora teaches a television audience measurement system of claim 13 wherein the communication apparatus includes a parallel port (column 4, lines 59-61).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the parallel connection taught by Ciciora to the system disclosed by Houston and Ozkan. The motivation would have been to use a known transmission standard to keep manufacturing costs down.

5. Claim 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan as applied to claim 13 above, and further in view of Williams.

Referring to claim 31, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the communication apparatus includes a USB port.

In an analogous art, Williams teaches a television audience measurement system of claim 13 wherein the communication apparatus includes a USB port (column 6, lines 27-32).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the USB connection taught by Williams to the system disclosed by Houston and Ozkan. The motivation would have been to use a known transmission standard to keep manufacturing costs down.

Referring to claim 32, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the communication apparatus includes a firewire port.

In an analogous art, Williams teaches a television audience measurement system of claim 13 wherein the communication apparatus includes a firewire port (column 6, lines 27-32).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the firewire connection taught by Williams to the system disclosed by Houston and Ozkan. The motivation would have been to use a known transmission standard to keep manufacturing costs down.

6. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan as applied to claim 13 above, and further in view of Kauffman.

Referring to claim 38, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the software agent is a software agent downloaded to the memory associated with the digital television equipment.

In an analogous art, Kauffman teaches a television audience measurement system of claim 13 wherein the software agent is a software agent downloaded to the memory associated with the digital television equipment (column 7, lines 49-53).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the software updating method taught by Kauffman to the system disclosed by Houston and Ozkan. The motivation would have been to enable the system to be updated by upgrading the OS, thereby adding new features or fixing bugs, which would make the system more enticing to consumers.

Referring to claim 39, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the software agent is a plug in software agent of the digital television equipment.

In an analogous art, Kauffman teaches a television audience measurement system of claim 13 wherein the software agent is a software agent downloaded to the memory associated with the digital television equipment (column 7, lines 49-53).

The examiner takes Official Notice that it is notoriously well known in the art to update software with plug ins.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use a plug in method taught to the system disclosed by Houston and Ozkan. The motivation would have been to enable the system to be updated by upgrading the OS, thereby adding new features or fixing bugs, which would make the system more enticing to consumers.

7. Claims 93 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan as applied to claims 92 and 79 above, and further in view of Saito.

Referring to claim 93, Houston and Ozkan do not disclose a software agent of claim 92 wherein the output port outputs data in accordance with the IEEE 1394 protocol.

In an analogous art, Saito teaches a software agent of claim 92 wherein the output port outputs data in accordance with the IEEE 1394 protocol (figure 58, lines 7003 and 7005).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the firewire protocol to communicate upstream, as taught by Saito, in the system disclosed by Houston and Ozkan. The motivation would have been to enable multiple units to connect up to a single modem for upstream communication.

Claim 99 is rejected on the same grounds as claims 92 and 93.

8. Claim 62, 64, 66, 68, 80, 82, 84, 86, 94, 100, and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Welsh in view of Saito.

Referring to claim 62, Houston discloses an apparatus for identifying a viewer selected television program from among a plurality of time overlapped television programs broadcast in a viewer selected broadcast channel and received by digital television program reception equipment (figure 8; column 8, lines 13-20), the apparatus comprising:

a reader connected to the data port to read program identifying data tuned by the digital television program reception equipment from among data exported from the digital television program reception equipment via the data port (figure 1; column 8, lines 13-32); and

a memory to store storing means for storing the program identifying data (figure 1; figure 8).

Houston does not disclose an apparatus wherein the reader is for use by a media device different from the digital television program reception equipment; and the data port operates in accordance with the IEEE 1394 protocol and the program identifying data read by the reader are identifier tags exported with the data in accordance with the IEEE 1394 protocol.

In an analogous art, Welsh teaches an apparatus wherein the reader is for use by a media device different from the digital television program reception equipment (figure 1a; column 6, lines 35-61).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the slave history recording units, as taught by Welsh, to the apparatus disclosed by Houston. The motivation would have been to enable more units to be added to a household at a cheaper rate, as they would not need to contain their own modem.

Houston and Welsh do not disclose apparatus wherein the data port operates in accordance with the IEEE 1394 protocol and the program identifying data read by the reader are identifier tags exported with the data in accordance with the IEEE 1394 protocol.

In an analogous art, Saito teaches an apparatus wherein the data port operates in accordance with the IEEE 1394 protocol and the program identifying data read by the reader are identifier tags exported with the data in accordance with the IEEE 1394 protocol (figure 58, lines 7003 and 7005).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the firewire protocol to communicate upstream, as taught by Saito, in the system disclosed by Houston and Welsh. The motivation would have been to enable multiple units to connect up to a single modem for upstream communication.

Claim 80 is rejected on the same grounds as claim 62.

Referring to claim 64, Houston, Welsh, and Saito do not disclose an apparatus of claim 62 wherein the digital television program reception equipment is a personal computer.

The examiner takes Official Notice that it is notoriously well known in the art to use a computer as a television receiver as most current set top boxes contain the components of a simple computer.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use a computer as a television receiver in the system disclosed by Houston, Welsh, and Saito. The motivation would have been that monitoring multiple types of receivers would provide more information to the central location.

Claims 68, 82, and 86 are rejected on the same grounds as claim 64.

Referring to claim 66, Houston discloses an apparatus of claim 62, further comprising: a communication device to transfer the program identifying data to a remote point (column 8, lines 13-20).

Claim 84 is rejected on the same grounds as claim 66.

Referring to claim 94, Houston discloses an apparatus of claim 62 wherein the reader time stamps the program identifying data (column 16, lines 64-67; figure 8).

Claims 100 and 102 are rejected on the same grounds as claim 94.

Claims 89 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Ozkan as applied to claim 13 above, and further in view of Saito.

Referring to claim 89, Houston and Ozkan do not disclose a television audience measurement system of claim 13 wherein the communication apparatus is an output port of the digital television equipment.

In an analogous art, Saito teaches a television audience measurement system of claim 13 wherein the communication apparatus is an output port of the digital television equipment (figure 58, lines 7003 and 7005).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the firewire protocol to communicate upstream, as taught by Saito, in the system disclosed by Ozkan and Houston. The motivation would have been to enable multiple units to connect up to a single modem for upstream communication.

Referring to claim 90, Houston and Ozkan do not disclose a television audience measurement system of claim 89 wherein the output port outputs data in accordance with the IEEE 1394 protocol.

In an analogous art, Saito teaches a television audience measurement system of claim 89 wherein the output port outputs data in accordance with the IEEE 1394 protocol (figure 58, lines 7003 and 7005).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the firewire protocol to communicate upstream, as taught by Saito, in the system disclosed by Ozkan and Houston. The motivation would have been to enable multiple units to connect up to a single modem for upstream communication.

9. Claims 65, 69, 83, and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Welsh in view of Saito as applied to claim 62 above, and further in view of Lotspiech.

Referring to claim 65, Houston, Welsh and Saito do not disclose an apparatus of claim 62 wherein the digital television program reception equipment is a digital television set.

In an analogous art, Lotspiech teaches an apparatus of claim 62 wherein the digital television program reception equipment is a digital television set (column 4, lines 53-59; figure 1).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the digital television signal transmission taught by Lotspiech to the system disclosed by Houston, Welsh and Saito. The motivation would have been to leave the signal in its digital form as long as possible to lower the signal loss equated with analog signal transmission.

Claims 69, 83, and 87 are rejected on the same grounds as claim 65.

Claims 63, 67, 81, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston in view of Welsh in view of Saito as applied to the claims above, and further in view of Ozkan.

Referring to claim 63, Houston, Welsh, and Saito do not disclose an apparatus of claim 62 wherein the digital television program reception equipment is a digital converter

In and analogous art, Ozkan teaches an apparatus of claim 62 wherein the digital television program reception equipment is a digital converter (column 2, lines 49-60).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the digital converter taught by Ozkan to the system disclosed by Houston, Welsh and Saito. The motivation would have been to enable the signals to remain in the digital domain for as long as possible therefore stopping unnecessary signal loss.

Claims 67, 81, and 85 are rejected on the same grounds as claim 63.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit 2424

JS